

REMARKS/ARGUMENTS

The rejections presented in the Office action dated August 12, 2004 have been considered. Claims 2-5, 7-17, 19-28, 30-33, and 35-54 remain pending in the application. Reconsideration and allowance of the application is respectfully requested.

Claim 38 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Applicant thanks the Examiner for pointing out the typographical error relating to the claim dependency. An appropriate correction has been made, and the Applicant respectfully submits that Claim 38 now complies with 35 U.S.C. §112, ¶2.

Claims 5, 7-9, 19, 20, 25, 33, 35-37, 47-48 and 53 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Pursuant to the Examiner's recommendations, each of these claims has been rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Therefore, Claims 5, 7-9, 19, 20, 25, 33, 35-37, 47-48 and 53 are now in condition for allowance.

Claims 29-32, 34, 39-46, 49-52 and 54 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Glavich et al.* ("Glavich") (US 6,634,945 B2).

Although the Applicant does not acquiesce with these particular rejections, Claims 29 and 34 have been canceled without prejudice or disclaimer. The Applicant reserves the right to file continuing applications on the subject matter of these claims.

Without acquiescence to the rejection to Claims 40-46 and 49-51, the Applicant has amended these claims in order to facilitate prosecution of the application. Claims 40-46 and 49-51 are now ultimately dependent from Claim 36. Claim 36 was objected to, but now rewritten in independent form to place it in condition for allowance. Therefore Claims 40-46 and 49-51 are also in condition for allowance as being dependent from an allowable claim.

Claim 30, now rewritten in independent form, also stands rejected by Glavich. The Applicant respectfully traverses the rejection. Claim 30 is drawn to subject matter fully supported by the parent Application Number 09/906,283 (U.S. Patent No. 6,632,140; hereinafter the '140 patent) from which the instant application derives the benefit of its July 16, 2001 filing date under 35 U.S.C. §120. For example, the discussion at column 9, lines 42-44 of the parent '140 patent indicates that a maximum number of spins or other termination point may be defined, thereby supporting at least the expiration count. The Applicant respectfully submits that Claim 30 is directed to subject matter which predates the September 28, 2001 filing date of the Glavich reference. Claim 30 is therefore not anticipated by Glavich, and is in condition for allowance.

Rejected Claims 31-32, 39, 52 and 54 were originally dependent from, or amended to be dependent from, Claim 30. While Applicant does not acquiesce with the particular rejections to these dependent claims, it is believed that these rejections are now moot in view of the allowability of Claim 30. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited references. Therefore, dependent Claims 31-32, 39, 52 and 54 are also in condition for allowance.

Claims 1-4, 6, 10-18, 21-24, and 26-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Glavich.

Although the Applicant does not acquiesce with these particular rejections, Claims 1, 6 and 18 have been canceled without prejudice or disclaimer. The Applicant reserves the right to file continuing applications on the subject matter of these claims.

Without acquiescence to the rejection to Claims 10, 12-17 and 21-23, Applicant has amended these claims in order to facilitate prosecution of the application. Claims 10 and 12-17 are now ultimately dependent from Claim 8, which was objected to but has been rewritten in independent form to place it in condition for allowance. Claims 21-23 are now ultimately dependent from Claim 19, which was objected to but has been rewritten in independent form to place it in condition for allowance. Therefore Claims 10, 12-17 and 21-23 are also in condition for allowance as being dependent from an allowable claim.

Claim 2, now rewritten in independent form, and original Claims 27-28 also stand rejected by Glavich. The Applicant respectfully traverses the rejection. Claims 2, 27 and 28 are drawn to subject matter fully supported by the parent '140 patent, as described above in connection with the remarks to Claim 30. The Applicant respectfully submits that Claims 2, 27 and 28 are directed to subject matter which predates the Glavich reference, as the expiration count is described in the parent '140 patent as, for example, a maximum number of spins. Claims 2, 27 and 28 are therefore not rendered obvious by Glavich, and are in condition for allowance.

Rejected Claims 3 and 4 are dependent from Claim 2, and Claims 11 and 24 have been amended to be dependent from Claim 2. While Applicant does not acquiesce with the particular rejections to these dependent claims, it is believed that these rejections are now moot in view of the allowability of Claim 2. These dependent claims include all of the limitations of the base claim and any intervening claims, and recite additional features which further distinguish these claims from the cited references. Therefore, dependent Claims 2, 4, 11 and 24 are also in condition for allowance.

Applicant respectfully submits that the pending claims are patentable over the cited prior art of record, and that the application is in condition for allowance. If the Examiner finds it helpful, the undersigned attorney of record invites the Examiner to contact him at 651-686-6633 (x110) to discuss any issues related to this case.

Respectfully submitted,



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